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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 MICHAEL DAVITT,

10 Petitioner,

11 vs.

12 MCDANIEL, et al.,

13 Respondents.
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Case No. 3:09-CV-00611-ECR-(VPC)

ORDER

15 The Court directed (#3) Petitioner to file an application to proceed in forma pauperis
16 or to pay the filing fee. Petitioner has done neither within the allotted time.

17 Reasonable jurists would not disagree with this conclusion, and the Court denies a
18 certificate of appealability.

19 IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice
20 for Petitioner's failure to comply with the Court's Order (#3). The Clerk of the Court shall enter
21 judgment accordingly.

22 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

23 IT IS FURTHER ORDERED that the Clerk of the Court send a copy of this Order
24 and the Petition for a Writ of Habeas Corpus to the Attorney General of the State of Nevada.

25 DATED: January 5, 2010

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EDWARD C. REED
United States District Judge